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Report of the Special Rapporteur on the sale of children, child prostitution and child pornography on her visit to Georgia

Addendum

Comments by the Government of Georgia on the report of the Special Rapporteur regarding her mission to Georgia

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Special Rapporteur on the sale of children, child prostitution and child pornography on her mission to Georgia (11-18 April 2016): comments by the State**

1. The following document represents the views and comments of the Government of Georgia (hereinafter the Government or the GoG) in respect of the Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, drafted following a country visit to Georgia from 11 to 18 April 2016.

2. The Government thanks the Special Rapporteur for the assessments and recommendations and welcomes this opportunity to respond to the report.

3. Comments and observations of the Government of Georgia on the Report of the Special Rapporteur on the sale of children, child prostitution and child pornography

4. Concerning paragraph 11 of the Report, the GoG would like to kindly note that though no comprehensive and up-to-date research has been conducted on the scope of child marriage, currently unified electronic base for institutions of general education exists. Schools have an obligation to register cases of early school suspension by pupils, including its reasons. Cases of suspension due to early marriages are also registered.

5. Paragraph 12 of the Report: besides "Parent Education and Engagement Subprogramme", the Ministry of Education and Science of Georgia implements "Subprogram of functioning of medical office on the territory of general education institutions (public schools) and school doctor activity".

6. One of its specific aims is informing parents, teachers and pupils on the issues of healthcare, including reproductive health and risks emanating from early marriages. Besides, class leader hour involves discussions on the issues as follows: age peculiarities and appropriate educational and training activities, healthy lifestyle, fighting harmful habits, reproductive health, risks emanating from early marriages, and etc.

7. Concerning paragraph 14 of the Report, the GoG would like to note that the issue of direct adoptions has been discussed by the working group which worked on the new law on "child adoption and foster care". Accordingly, the draft law abolishes direct adoption.

8. The work is in progress on a permanent basis for the best interest of the child eligible for the adoption.

9. All state structures, the courts, as well as the diplomatic corps, the public defender's office and NGOs were involved in the working group. The final draft of new law regulating domestic and intercountry adoptions has been already drafted to the Committee of Health care and Social Issues of the Parliament of Georgia. It is important that reconciliation procedure of the prospective parents and children eligible for adoption are conducted in the processes of domestic adoption and intercountry adoption. Social worker is included in this process and prepares report on reconciliation considering the best interest of the child. The child's opinion is considered in this process.

10. There is no special monitoring of the wellbeing of the children after domestic adoption. Adoptive parents based on the decision of the court become parents, legal representatives. According to the Georgian legislation they are equal to biological parents and from their side in case of improper treatment of child (children) rights, their responsibility is defined by the applicable domestic legislation.

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11. In case of intercountry adoption, adoptive parents are required to submit an annual report on the adopted child's health and social condition.

12. Concerning paragraphs 15, 16, 17 and 18 of the Report, regarding international commercial surrogacy arrangements, Georgian authorities acknowledge the importance of the proper regulation of the international surrogacy arrangements and appreciate the assistance and recommendations of the Special Rapporteur in this regard.

13. The Government of Georgia takes this opportunity to underscore the attention the Georgian authorities draw to the protection of children born through an extracorporeal fertilization (surrogacy). To address this issue, on 22 March 2016 the legal amendments were introduced to the Law of Georgia on the Rules of Leaving Georgia and Arrival to Georgia by Citizens of Georgia and the Law of Georgia on the Legal Status of Foreigners and Stateless Persons. In addition, the Joint Order of the Minister of Justice of Georgia and the Minister of Internal Affairs of Georgia (N133, N144; 5 April and 11 April 2016) was adopted.

14. Based on the abovementioned Joint Order, the data of the children born through extracorporeal fertilization (surrogacy) developed by the LEPL Public Service Development Agency (PSDA) is available for the Ministry of Internal Affairs responsible for the passport control at the Border Crossing Points. In particular, when the child, born in Georgia through an extracorporeal fertilization (surrogacy) and included in the data-base of PSDA, is leaving the country for the first time but does not have both parents indicated in the birth certificate or PSDA has not registered the birth certificate on behalf of a child, the authorized official of MIA is obliged to prevent taking the child from Georgia.

15. With regard to paragraph 26 of the Report, the GoG kindly notes that protection and prevention of any types of violence against children in street situations is one of the priorities of the Georgian authorities. To address this issue the relevant legislative amendments were introduced to promote the identification of homeless children and provide them with identification documents free of charge.

16. The identification documents will create the legal basis to make the various state-run services available for homeless children. In addition, after the visit of the Special Rapporteur, the Child Protection Referral Mechanism, previously adopted by the Joint Order of the Ministers of Interior, Healthcare and Education in 2010, was revised and adopted by the Governmental Decree on 12 September, 2016. One of the main aims of revision of the Referral Mechanism was to expand the list of governmental entities and local self-government, which are involved in the referral process of the child violence cases. Currently, the social worker are empowered to separate the child victim of violence from the perpetrator, including removing him/her from the family, if the child was the subject of violence in the family environment.

17. Apart from this, in order to promote the implementation of the legal amendments with regard to homeless children, facilitate identification and reintegration of the homeless children into the society, two NGOs has started to run the projects under the grant project of the Ministry of Justice of Georgia. The grant projects will be completed in 2017.

18. Concerning paragraph 32 of the Report, the GoG is firmly committed to ratify the Istanbul Convention. With this aim the Ministry of Justice of Georgia has elaborated the legal amendments in up to 25 legal acts. The draft amendments aim at harmonization of domestic legislation with the Istanbul Convention, overcoming challenges related to the violence against women and domestic violence, prevention and elimination of the cases of violence against women and domestic violence, extension of the legal remedies for the women victims of violence. The draft amendments were approved by the Government of Georgia on 24 January, 2017. The Legislative amendments were submitted to the Parliament of Georgia on 8 February, 2017.

19. Concerning paragraph 37 of the Report, the GoG kindly clarifies that apart from Article 253 (Engagement in prostitution) and Article 2551(Engagement of minors in illegal production and sale of pornographic works or other similar items) Article 255 of the Criminal Code criminalizes illegal making or sale of a pornographic work or other items. According to Paragraph 2 Article 255 of Criminal Code knowingly purchasing, storing, attending the demonstration of, offering, disseminating, transferring, advertising, providing access to or using pornographic work containing images of minors is criminalized, which itself includes the element of possession of child abuse material.

20. Concerning paragraphs 47 and 49 of the Report, the GoG kindly notes that special child–tailored activities are incorporated in the National Action Plan (NAP) on Combating Trafficking in Human Beings for 2015-2016 and 2017-2018. Particular attention is paid to the prevention and protection of child victims. When it comes to the Prevention of TIP, educational measures at schools and higher education institutions, in large institutions for child care and small family-type institutions should be fairly noted. As for the protection, Georgian authorities have committed to consider the special needs of children, including those with disabilities while providing them with the services in Shelters.

21. Furthermore, the new Action Plan includes new dimension - Development of the policy on combating trafficking in persons, which includes conducting various researches and analysis on issues related to Trafficking in minors.

22. Additionally, it should be underlined that under the NAP every single activity is equally referred to both minor and adult victims of trafficking.

23. Concerning paragraphs 73, 74 and 75 of the Report, regarding prevention, the GoG considers public awareness raising campaigns on human trafficking as one of the essential preventing measures. For the effective implementation of the preventive measures, the Inter-Agency Council on Combating Trafficking in Human Beings elaborated a Common Information Strategy on combating trafficking targeting that defines vulnerable target groups, including children, regions and implementation means.

24. Particular attention is paid to raising awareness of children and youngsters about the threats of all types of exploitation in order to prevent THB against them. The Government of Georgia prioritizes prevention of trafficking, including sexual exploitation, through enhancement of education in secondary and high schools. In this regard issues related to sexual and labor exploitation is widely covered under the national curriculum for 2011-2016 years. Issues related to human trafficking, including sexual exploitation, are taught as a subject of social sciences – Civic Education and History.

25. Additionally, every year various educational activities (trainings, public lectures, moot court competitions, round tables, information meetings, summer schools, etc.) are held for school pupils, teachers and students; various information leaflets, flyers and brochures are widely disseminated among minors and teenagers to inform them about the threats of sexual exploitation, the ways how to prevent the crime and to whom they should apply in case of any type of violence against them.

26. Concerning recommendation 84 (a), the GoG would like to note, that since 2017 LEPL- State Fund for Protection and Assistance of (Statutory) Victims of Human Trafficking has expanded the advisory hotline of domestic violence (116 006), which has already covered the issues of sexual abuse and human trafficking. The hotline operates throughout the country and provides service to all persons concerned (including children) during a 24 hour period, 7 days a week. Making a call for the customer is free and appropriate counseling is available in several languages.

27. Concerning recommendation 86 (b) regarding adoption and implementation of the new plan of action for the child care system, it should be noted, that in every two years

State adopts and implements the holistic Governmental Action Plan on Human Rights. The Human Rights Action Plan for 2016-2017 includes special chapter dedicated to the protection of child rights: strengthening the system of protection and assistance for children; accomplish the de-institutionalisation process; improvement of services for vulnerable children; eradication of child poverty and etc.